

Ser. No. 10/825,574
Amendment A dated March 12, 2007
Reply to Office Action dated December 14, 2006

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REMARKS

I. Introduction

This is in response to the Office Action dated December 14, 2006.

As a preliminary matter, Applicants appreciate Examiner Kang Hu's time and courtesy extended during the March 2, 2007 telephone interview with Applicants' representative, Grace Law O'Brien. Although no agreement was reached during the interview, Applicants appreciate the Examiner's consideration of Applicants' arguments. In light of the interview, Applicants submit "Amendment A" in further prosecution of the present application.

In the Office Action, the specification and Claims 3, 7, 13, and 20 are objected to for minor informalities. Claims 20 through 23 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 1, 2, 4-9, 15, 16, 18, 19, 21, and 23 are rejected under 35 U.S.C §102(b) as being anticipated by Fry (U.S. Patent Number 6,463,385) ("Fry"). Claims 3, 10-14, 17, 20, and 22 are rejected under 35 U.S.C. §103(e) as being unpatentable over Fry in view of Khosla (U.S. Patent Number 6,080,063) ("Khosla"). Applicants respectfully traverse these rejections and request reconsideration of the present application.

II. The Objections to the Specification

The specification is objected to for minor informalities on page 3. In response, Applicants amend page 3 of the specification, as suggested by the Examiner.

The specification is objected to for including abbreviated words without expansion of these abbreviated words. In response, Applicants amend the specification to expand the abbreviated words of "PCS," "GPRS," "EDGE," "WIFI," and "PDA," as suggested by the Examiner. Moreover, Applicants amend the specification to correct other minor informalities found in the application and submit that no new matter is added by the proposed amendments.

Applicants further submit that no new matter has been added by the proposed amendments of the specification. Applicants appreciate the

Ser. No. 10/825,574
Amendment A dated March 12, 2007
Reply to Office Action dated December 14, 2006

Examiner's notation of these minor informalities of the specification. In light of the proposed amendments, Applicants request that the objections to the specification be withdrawn.

III. The Objections to Claims 3, 7, 13, and 20

Claims 3, 7, 13, and 20 are objected to for minor informalities. In response, Applicants amend Claims 3, 7, 13, and 20, as suggested by the Examiner. Moreover, since the amendments to the claims are merely cosmetic, Applicants respectfully submit that the scope of the originally filed Claims 3, 7, 13, and 20 will not be narrowed as a result of these proposed amendments. Again, Applicants appreciate the Examiner's notation of these minor informalities of the claims. In light of the proposed amendments, Applicants request that the objections to Claims 3, 7, 13, and 20 be withdrawn.

IV. 35 U.S.C §112, Second Paragraph, Rejection of Claims 20 through 23

Claims 20 through 23 are rejected under 35 U.S.C §112, second paragraph, as being indefinite. Although Applicants respectfully disagree with the Examiner's assertions relating to the §112, second paragraph, rejection, of Claims 20 through 23, to expedite the prosecution of the present application, Applicants nevertheless amend Claim 20. Furthermore, since the amendments to Claim 20 are merely cosmetic, Applicants respectfully submit that the scope of the originally filed Claim 20 would not be narrowed as a result of these proposed amendments.

Applicants further respectfully traverse the §112, second paragraph, rejection of Claims 20 through 23 because the recited features are not ambiguous, as asserted by the Examiner. Under §112, second paragraph, definiteness requires claims to be directed to a particular subject matter with a reasonable degree of clarity and particularity. See MPEP, §2173.02. Definiteness of claim language must be analyzed, not in a vacuum, but in light of (1) the content of the particular application disclosure, (2) the teachings of the

Ser. No. 10/825,574

Amendment A dated March 12, 2007

Reply to Office Action dated December 14, 2006

prior art, and (3) the claim interpretation that would be given by one skilled in the pertinent art at the time the invention was made. See Id.

Since the present application was filed on April 15, 2004 with a priority date of March 11, 2004, Applicants respectfully submit that at the time the invention was made, it would be readily appreciated to one skilled in the art how a machine would be connected to a program (Claim 20) and how a program would receive output from the monitoring means (Claim 21). Moreover, the numerous ways in which a program, such as firmware and/or software, would interface with other devices and/or programs were well known within the computer industry at the time the present application was filed. As such, Applicants respectfully submit that no further clarification is required and the claims are directed to a particular subject matter with a reasonable degree of clarity and particularity as recited. Accordingly, for all these reasons, Applicants request that the §112, second paragraph, rejection of Claims 20 through 23 be withdrawn. If, however, the Examiner wishes to maintain the §112, second paragraph, rejection, Applicants respectfully request that the Examiner suggest claim language that would overcome the rejection, as encouraged in the Manual of Patent Examining Procedure. See MPEP, §2173.02.

V. 35 U.S.C §102(b) Rejection of Claims 1, 2, 4-9, 15, 16, 18, 19, 21, and 23

A. Fry does not disclose, teach, or suggest the features of comparing the first performance of a participant to a second performance based, at least in part, upon geographic data of the first course from a geographic database, as recited in Claims 1 and 21.

Claims 1, 2, 4-9, 15, 16, 18, 19, 21, and 23 are rejected under 35 U.S.C §102(b) as being anticipated by Fry. Applicants respectfully traverse because Fry does not disclose, teach, or suggest the features of matching the first performance to a first course located in the first geographic area to provide first course data using the geographic database and comparing the first performance of the first participant to a second performance based, at least in part, upon the first course data, as provided by Claims 1 and 21. In order to more clearly recite

Ser. No. 10/825,574
Amendment A dated March 12, 2007
Reply to Office Action dated December 14, 2006

the features of the claims, however, Applicants amend Claims 1 and 21 without intending to narrow the scope of the originally filed claims. Applicants further submit that the proposed amendments of Claims 1 and 21 are supported by the specification and no new matter has been added.

In rejecting Claims 1 and 21, the Examiner provides the following arguments:

Re claim 1: Fry discloses a method for facilitating performance by a participant in an event that includes movement along a course (see abstract; col[sic] 7, line 57), the method comprising: monitoring a first performance by a first participant in a first event (col[sic] 1, lines 23-29); accessing a geographic database (abstract; col[sic] 2, lines 17-42; col[sic] 5, lines 18-26) that includes data that represents features in a first geographic area; using the geographic database to match the first performance to a first course located in the first geographic area; comparing the first performance of the first participant to a second performance; and providing an indication an indication of the comparing to the first participant (abstract; col[sic] 1, lines 50-65).

See Office Paper 20061206, page 4.

Re claim 21: Fry discloses a system comprising a monitoring means that monitors a first user's performance in an event that involves movement along a first course (see abstract; col[sic] 7, line 57) and provides an output indicative thereof; a geographic database (abstract; col[sic] 2, lines 17-42; col[sic] 5, lines 18-26) that includes data that represents features in a first geographic area that includes the first course; and a competition comparison and equivalency program that receives the output from the monitoring means and provides the first user with an indication that compares the first user's performance to a second performance (abstract; col[sic] 1, lines 50-65).

See Office Paper 20061122, page 6.

The Examiner cited the abstract, column 2, lines 17-42, and column 5, lines 18-26 from Fry, but these cited portions of Fry disclose nothing more than a geographic position that indicates a GPS position of a cyclist detected by a global

Ser. No. 10/825,574
Amendment A dated March 12, 2007
Reply to Office Action dated December 14, 2006

positioning device ("GPS") receiver 210 and not a geographic database as asserted by the Examiner. From the system shown in FIG. 2 (reproduced below) of Fry, one can easily see that a geographic database is not provided. As such, Fry does not disclose, teach, or suggest specifically two performances being compared using a geographic database as provided in Claims 1 and 21.

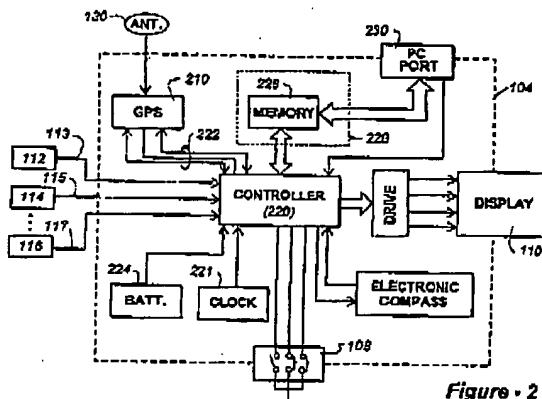


Figure - 2

The only time Fry discusses any use of a map 432 is for superimposing the plot 438 over the map 432 on a display 426, which is shown in FIG. 4 (reproduced below) and described on Column 7, lines 1-3.

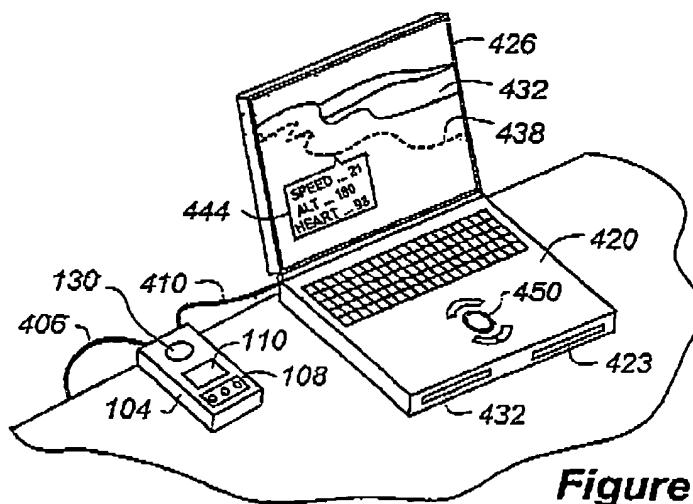


Figure - 4

Thus, even when the map data is used, Fry never considered comparing or matching performances using the map data. In fact, Fry specifically teaches

Ser. No. 10/825,574
Amendment A dated March 12, 2007
Reply to Office Action dated December 14, 2006

away from the use of a geographic database by encouraging that the geographic features be used only as a plot along with other ride characteristics but without even hinting at any uses relating to comparing or matching performances (Fry, Column 7, lines 24-27).

Moreover, any characteristics relating to comparison between performances are all obtained by devices and not from geographic data. For example, Fry specifically teaches the use of the GPS receiver 210 for obtaining geographical information, such as position and elevation (Fry, abstract, Column 5, lines 19-23). According to Fry, sensors 112, 114, 116, 120, 122, 124 are used for measuring operational and/or physiological parameters such as heart rate, weather conditions, temperature, and again mentions nothing of using geographic data that may already have this information (Fry, abstract, Column 4, lines 7-48). As such, Fry not only fails to disclose the recited features, but it also specifically teaches away from using the feature of geographic data, because Fry only teaches the use of the GPS receiver 210 and sensors 112, 114, 116, 120, 122, 124 for determining the altitude, cyclist's heart rate, speed, gear ratio in order to see how hard the cyclist was working as a function of the incline (Fry, Column 7, lines 13-34).

For all these reasons, Applicants respectfully submit that Fry does not disclose, teach, or suggest the features of the "accessing a geographic database that includes data that represents features in a first geographic area, using the geographic database to match the first performance to a first course located in the first geographic area to provide geographic data of the first course; [and] comparing the first performance of the first participant to a second performance based, at least in part, upon the geographic data of the first course" (Claim 1) and "a geographic database that includes data that represents features in a first geographic area that includes the first course and a competition comparison and equivalency program that receives the output from the monitoring means, matches the first user's performance to the first course to provide geographic data of the first course, and provides the first user with an indication that

Ser. No. 10/825,574

Amendment A dated March 12, 2007

Reply to Office Action dated December 14, 2006

compares the first user's performance to a second performance based, at least in part, upon the geographic data of the first course" (Claim 21) as recited.

Accordingly, Applicants request that the §102 rejection of Claims 1 and 21 be withdrawn.

B. Dependent Claims 2, 4-9, 15, 16, 18, 19, and 23

Dependent Claims 2, 4-9, 15, 16, 18, 19, and 23 ultimately depend directly or indirectly upon independent Claims 1 and 21, which have been shown as allowable above. Moreover, the claims introduce additional content that, particularly when considered in context with the claims from which they depend, comprises additional incremental patentable subject matter. Applicants reserve the right to present further arguments in the future with regard to these dependent claims. For all these reasons, Applicants respectfully request that the §102 rejection of dependent Claims 2, 4-9, 15, 16, 18, 19, and 23 be withdrawn.

VI. 35 U.S.C §103(a) Rejection of Claims 3, 10-14, 17, 20, and 22

A. Both Fry and Khosla teach away from the features of comparing or matching performances using data from a geographic database as recited in Claims 1 and 21 in which dependent Claims 3, 10-14, 17, 20, and 22 depend from, because both cited references specifically teach the use of sensors for gathering geographic and performance features.

Claims 3, 10-14, 17, 20, and 22 are rejected under 35 U.S.C §103(a) as being unpatentable over Fry in view of Khosla. Applicants respectfully traverse because each of these cited references teaches away from the recited features of comparing or matching performances using data from a geographic database.

As previously discussed, Fry specifically teaches the use of a GPS receiver 210 for obtaining geographical information, such as position and elevation (Fry, abstract, Column 5, lines 19-23) and sensors 112, 114, 116, 120, 122, 124 for measuring operational and/or physiological parameters such as heart rate, weather conditions, temperature (Fry, abstract, Column 4, lines 7-48). Even when Fry teaches the use of map data, Fry mentions nothing about using map data that may already have information needed for comparing

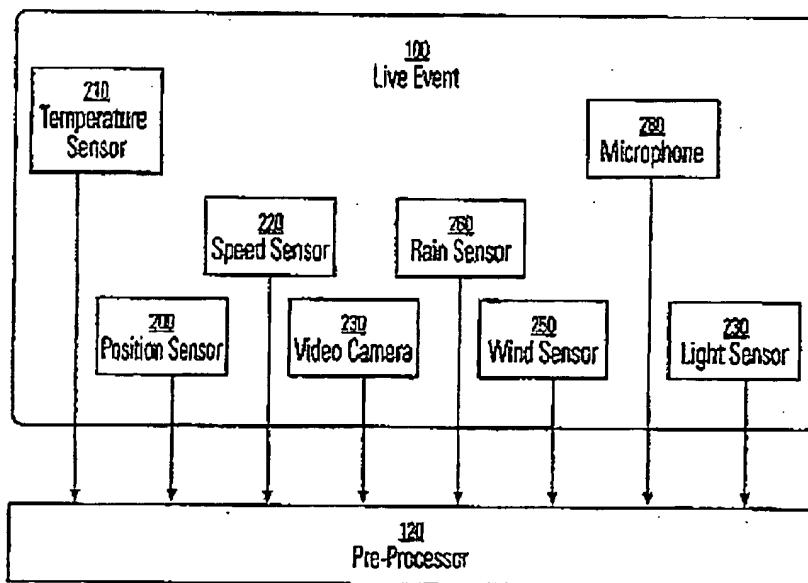
Ser. No. 10/825,574

Amendment A dated March 12, 2007

Reply to Office Action dated December 14, 2006

performances. Instead, Fry teaches that the map data can be used for superimposing a plot 438 with the performance information gathered by the GPS receiver 210 and sensors 112, 114, 116, 120, 122, 124, over the map 432 on a display 426 (Fry, FIG. 4, Column 7, lines 1-3). As such, Applicants respectfully submit that because Fry teaches the use of the GPS receiver 210 and sensors 112, 114, 116, 120, 122, 124 for determining the cyclist's altitude, heart rate, speed, and gear ratio in order to see how hard the cyclist is working as a function of the incline (Fry, Column 7, lines 13-34), Fry, in fact, teaches away from the recited features. As such, nothing can be drawn from Fry to combine with Khosla to make the asserted combination.

Khosla similarly has the same failing as Fry, because it too teaches the use of sensors for gathering geographic and performance information, and not a geographic database as recited in Claims 1 and 21. For example, FIG. 2 (reproduced below) of Khosla clearly shows the use of sensors like a position sensor 200 and video camera 230 for gathering route and performance information (See also Khosla, Column 3, line 59 to Column 4, line 29).



Again, nothing from Khosla would encourage one to make the combination asserted by the Examiner to provide the features of Claims 3, 10-14, 17, 20, and

Ser. No. 10/825,574
Amendment A dated March 12, 2007
Reply to Office Action dated December 14, 2006

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MAR 12 2007

22. Accordingly, Applicants request that the §103 rejection of Claims 3, 10-14, 17, 20, and 22 be withdrawn.

VII. New Claims 24 Through 35

Applicants add new Claims 24 through 35 for further consideration from the Examiner. Applicants further submit that these new claims 24 through 35 are supported by the specification and no new matter has been added.

VIII. Conclusion

Applicants submit that all the pending claims in the present application are allowable and that the present application is in condition for allowance. If any issues remain in the present application, the Examiner is invited to call the undersigned at the telephone number below.

Respectfully submitted,



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